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No. 06-524

FILED
JAN 31 2007
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SUPREME COURT, U.S.

In The

Supr me Court of the United States

Alberta A. Swan - Petitioner

v.

Wal-Mart - Respondent

No. 06-524

**Petition For The Rehearing Of An Order To The Supreme Court of The United States**

PETITION FOR THE REHEARING OF AN ORDER

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## PETITION FOR THE REHEARING OF AN ORDER

In the preceding documents and hearings concerning Alberta A. Swan v. Wal-Mart (No: 06-524), Wal-Mart failed to bring in two key witnesses who are critical to the verdict of this particular case of Alberta A. Swan v. Wal-Mart. Kevin Moeller, a Wal-Mart assistant store manager who was my direct supervisor, and Alicia Beatty, a Wal-Mart employee, did not appear at the court hearings to testify. Kevin Moeller, a Wal-Mart assistant store manager who was also my direct supervisor, did not appear at the court hearings to testify why was he not on duty on September 18, 2001 during the attempted robbery. Alicia Beatty, an employee who was on duty at the time of the incident, did not appear at the court hearings to testify. Ironically, Mrs. Beatty's statement is on police record.

Wal-Mart failed to have a deposition with Dr. Allen Auerbach concerning my physical condition, which has worsened since September 18, 2001. Wal-Mart did not request for me to take an IME with their doctor concerning my physically disabled body.

In the case of Alberta A. Swan v. Wal-Mart, a fundamental rule was disregarded by the employer, Wal-Mart (store number 2334). A rule is a guide or principle for governing action; it is a regulation – it is the usual way of doing something (Merriam-Webster Dictionary). Wal-Mart's rule was that no one was permitted to enter the accounting room / cash room unless accompanied by management. Wal-Mart's employee, Mr. Michael Schmidt, broke the rule and demanded entrance into the accounting room / cash room without being accompanied by management. Wal-Mart's employee, Mr. Michael Schmidt, attempted robbery while I was protecting Wal-Mart's cash assets. No manager was on duty to protect me from harm (a minimum of one Wal-Mart store manager is supposed to be on duty at all times for employee assistance and emergencies). At the time of the

attempted Wal-Mart robbery on September 18, 2001, no Wal-Mart store managers were on duty to protect me from an emergency.

WalMart's Open Door Policy states, "*If associates have ideas or concerns, they can discuss them with their supervisor without fear of retaliation.*" *However, if associates feel their supervisor is the source of the problem, or if their supervisor has not addressed the problem satisfactorily, associates can go to any level of management in the Company with concerns.*" (My Career; walmartstores.com). This policy states that Wal-Mart's associates will be heard by Wal-Mart's management. However, it is evident that I have not been heard, and this is why I am now pleading to the Honorable Supreme Court of the United States.

I am pleading to the Honorable Supreme Court of the United States due to the fact that Wal-Mart is totally disregarding an attempted robbery at the Wal-Mart store on September 18, 2001 when a Wal-Mart employee, Mr. Michael Schmidt, demanded entry into the accounting room / cash room while I was protecting Wal-Mart's cash assets during my shift. I am pleading to the Honorable Supreme Court of the United States due to the fact that a fundamental rule was broken – rule: no one is allowed into the accounting room / cash room unless accompanied by management (Mr. Michael Schmidt, a Wal-Mart employee, demanded entrance into the accounting room / cash room without being accompanied by management). I am pleading to the Honorable Supreme Court of the United States due to the fact that contrary to proper protocol, no managers were on duty to protect me from an attempted robbery on September 18, 2001. I am pleading to the Honorable Supreme Court of the United States because Wal-Mart has done nothing to help me - I was put in a hostile situation of an attempted robbery, and when I called Wal-Mart's store management for help, there was no response because there were no managers on duty to help me.

Wal-Mart's Culture is based on the three basic beliefs to the Sundown Rule: "*we respect our customers, Associates and suppliers and strive to treat them as we ourselves want to be treated.*" (Sundown Rule – walmartstores.com). According to the aforementioned statement, Wal-Mart respects their associates and strives to treat them in the same way they (Wal-Mart) want to be treated. I question the integrity of Wal-Mart's belief system.

If Wal-Mart's employee, Mr. Michael Schmidt, would have followed proper protocol, I would not be in the condition I am in now. I have anxiety attacks and at times post traumatic attacks. I am depressed, very depressed at times due to the anxiety and post traumatic attacks. It is evident that Wal-Mart has done nothing to help me to recover from this horrible, horrible situation. Instead, Wal-Mart has looked the other way (contrary to their belief system and open door policy).

Please consider the wrongfulness Wal-Mart has done to me. The actions of the intruder, Mr. Schmidt (Wal-Mart's employee), were not caught on tape because the surveillance cameras were not working at the time. I was not aware that the surveillance cameras were not working during the attempted robbery, and neither was store manager Dennis Colbert aware that the surveillance cameras were not working, according to his testimony. In fact, Dennis Colbert, Wal-Mart's store manager, testified that he did not know the surveillance cameras were not taping on September 18, 2001 – he testified that he was not told that the surveillance cameras were not taping on September 18, 2001.

Due to the incident that happened to me at Wal-Mart on September 18, 2001, I now suffer from mental depression, anxiety attacks, and post traumatic attacks. Suffering from these disorders have caused me physical medical problems as well (mental disorders can cause physical conditions, even if there are no pre-existing physical problems). Due to the incident that happened to me at Wal-Mart on September 18, 2001, I am now bent-over and cannot stand up straight. Due

to the incident that happened to me at Wal-Mart on September 18, 2001, I am unable to fulfill my duties as a wife. Due to the incident that happened to me at Wal-Mart on September 18, 2001, I now have very limited pleasure. Due to the incident that happened to me at Wal-Mart on September 18, 2001, I am unable to fully enjoy my six grandchildren.

Yes, Wal-Mart has changed my life mentally and physically. In his testimony, Mr. Brian Smith, Michael Schmidt's direct supervisor, did not say that he was not aware of the rule concerning the entering of the accounting room / cash room. In his testimony, Mr. Michael Schmidt, the intruder, did not say that he was not aware of the rule concerning the entering of the accounting room / cash room. It is evident that Mr. Michael Schmidt, the intruder, did not follow proper protocol; he broke the rule. Seeing someone or knowing someone, or having someone for an employee does not mean that he or she will not rob you. Mr. Schmidt demanded his way into the accounting room / cash room. A robber does not ask how much money one has before he or she robs you. A robber will rob day or night. Trying to enter a locked door by force is called breaking in. The normal way to enter a locked door is with a key. The normal way to enter a room where not permitted without management is to bring management with you. No one would know in advance how he or she would react during an attempted robbery. No one testified of this reaction.

It was me who was put in this hostile position that was a danger and threat to my life. The intruder (Mr. Schmidt) knew his actions would not be taped on camera for evidence. Yes, I panicked, because I am human. I became very scared, afraid for my life, afraid of being robbed.

Now I am at the mercy of the Honorable Supreme Court of the United States. I beg, I plead - I hope the Honorable Supreme Court of the United States will see to it that justice will be served in Alberta A. Swan v. Wal-Mart in which Wal-Mart disregarded their rule / regulation where no

one is allowed into the accounting room / cash room unless accompanied by management. I hope the Honorable Supreme Court of the United States will order Wal-Mart to pay me workers' compensation, which is lawfully and rightfully due to me as evident by documentation from licensed physicians stating my disability as a result of the incident that occurred to me at Wal-Mart, store number 2334, on September 18, 2001.

Respectfully submitted,

Alberta A. Swan

Date: 2/13/07